

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

M.B., an infant, by and through
His mother and natural guardian, JANENE M.
PATTERSON, Individually, _____

Plaintiff(s)

-against-

SONIA E. GRAY, D.D.S., NEW PALTZ HEALTH
CENTER and HUDSON RIVER HEALTHCARE, INC. _____

Civil Action No. 1:14-CV-1355
(DNH/CFH)

NOTICE OF REMOVAL

TO: United States District Court
for the Northern District of New York

~~Defendants, Sonia E. Gray, D.D.S., Hudson River HealthCare, Hudson River HealthCare~~

New Paltz (hereinafter "Hudson River HealthCare" incorrectly s/h/a New Paltz Health Center and Hudson River Healthcare, Inc.), by their attorney, RICHARD S. HARTUNIAN, United States Attorney for the Northern District of New York, CATHLEEN B. CLARK, Assistant U.S. Attorney, of counsel, respectfully petition the Court to remove the above-captioned action from the Supreme Court, County of Ulster, State of New York, to the United States District Court for the Northern District of New York, pursuant to 42 U.S.C. §§ 233(a) and (c) and 28 U.S.C. §§ 1441 (a), and 2679(d)(2). In support of this notice, counsel for Sonia E. Gray, D.D.S. and Hudson River HealthCare, respectfully represent that:

1. On or about July 9, 2014, plaintiff filed a Summons and Complaint in the above-captioned matter in Ulster County Supreme Court, a copy of which is attached hereto as **Exhibit**

1.

2. Sonia E. Gray, D.D.S. and Hudson River HealthCare are named defendants in the above-captioned civil proceeding now pending in Supreme Court, County of Ulster, State of New York. *See Exhibit 1.*

3. The Complaint is a suit against the federal defendants for alleged negligence in providing dental care to the minor plaintiff, M.B. *Id.*

4. Upon information and belief, the source of which is information provided to the United States Attorney's Office by the United States Department of Health and Human Services, Hudson River HealthCare was deemed eligible for Federal Tort Claims Act coverage effective January 1, 2012, and that coverage has continued without interruption since that time. *See Declaration of Meredith Torres, Esq., attached as Exhibit 2.*

5. Upon information and belief, the source of which is information provided to the United States Attorney's Office by the United States Department of Health and Human Services, Sonia E. Gray, D.D.S., was, at the time of the alleged incidents in the Complaint, a Doctor of Dental Surgery, employed by Hudson River HealthCare. *Id.*

6. Since Hudson River HealthCare is an entity deemed eligible for Federal Tort Claims Act coverage and Sonia E. Gray, D.D.S. was an employee at the time of the allegations contained in the Complaint, pursuant to 42 U.S.C. § 233(g)(1)(A), plaintiffs' exclusive remedy is against the United States.

7. This removal is brought pursuant to 42 U.S.C. §§ 233(a) and (c) in which (c), provides in part, that:

[u]pon certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is

pending and the proceeding deemed a tort action brought against the United States under the provisions of Title 28 and all references thereto.

8. Certification to this effect is attached as **Exhibit 3**.

9. A copy of this Notice of Removal is being served upon the plaintiff, and a certified copy hereof will be filed with the State of New York Supreme Court, County of Ulster, pursuant 28 U.S.C. § 1446(d).

Dated: November 7, 2014

Respectfully submitted,

RICHARD S. HARTUNIAN
United States Attorney

By:



CATHLEEN B. CLARK
Assistant United States Attorney
James T. Foley U.S. Courthouse
445 Broadway
Room 218
Albany, NY 12207
Tel: (518) 431-0247
Cathleen.B.Clark@usdoj.gov
Bar Roll No. 516792